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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/218,308 12/22/98 SERIES

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MM92/0323

EXAMINER

NGUYEN, A

ART UNIT

PAPER NUMBER

2854

8

DATE MAILED:

03/23/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/218,308

Applicant(s)  
Chris Seres et al.

Examiner  
Anthony Nguyen

Group Art Unit  
2854



☒ Responsive to communication(s) filed on Jan 7, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Claims 5 - 20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 5 line 1, the word "last" has no clear meaning. It should obviously be --least--. With respect to claim 11 line 4, the first "a" should be deleted. There is no proper antecedent basis for "the cover assembly" (claim 4 line 3 and claim 13 line 3) and "the dispensing device cover assembly" (claim 12 line 3). With respect to claim 17, the element "a top panel" (claim 17 line 3) is inferentially recited.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6,8-16,19 and 20 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over each of the patents to Frick and Otsubo.

Each of the patents to Frick and Otsubo teaches a protective device having structure which renders obvious the structure as recited. Note for example, Fig. 1 of Frick which shows a protective device 7 having means 8 covering a document feed path opening and means 11 which lets the document 12 to be fed out. Otsubo teaches a protective device 1a which cover the

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document feed path opening and means 7 for providing access to the document 5 which is just printed from a printing device as shown in Figs.1-7 and 9 of Otsubo. With respect to claims 3 and 4, the protective device 7 of Frick appears to be integral part of the printer and secured by means 6 to the cover or housing 5. With respect to claims 8, 9,18 and 19, the selection of a desired material which is transparent or can be dishwasher involves only an obvious matter of design choice based upon obvious experimentation.

Applicants' arguments filed on January 7, 2000 have been fully considered but they are not persuasive of any error in the above rejections. Applicant argues that Frick, Otsubo and Hirano fail to teach or suggest the protective device for dispensing devices or printers as recited. Specifically, applicant argues that Frick, Otsubo and Hirano do not teach an environmental protection for a printer since the protective device of Frick is used for reducing noise from a printer, Otsubo teaches a soundproofing case for use with a printer and Hirano teaches a low noise flat head type printer. However, as explained above, Frick and Otsubo render obvious the protective device as recited. Frick teaches a protective device including means which is an integral part of printer for covering a document feed path opening, means 14 for providing access to the documents (Frick, col.2 lines 11-14) and means for guiding the printed document from the printer passing through the feed path opening. It is noted that the protective device of Frick is secured to an angled top portion of the cover as shown in Fig.1 of Frick. While the protective cover of Frick is used for reducing noise from the printer, one of ordinary skill in the art would have been recognized that it protects the printer from dust or environmental contamination.

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Otsubo teaches a protective device including means or a hood 1(a) (See Otsubo, Fig.1,4,5 and 7) which covers the document feed path opening and means for providing access to the document which is just printed from a printing device. Note the paper 5 of Otsubo is fed out of the means 7 as shown in Figs.5 and 9. Thus, it is believed that the rejections are proper. There is no apparent unobviousness in the structure claimed relative to the structure of the prior art as applied.

As presently advised it appears that claims 7 and 17 avoid the prior art but are rejected under 35 U.S.C. § 112. These claims if properly rewritten overcome the rejection and in independent form and to include all of the limitations of the base claim and any intervening claims would be allowable.

Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (703) 308-2869. The examiner can normally be reached daily from 9 AM to 5PM. If attempts to reach the examiner by

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telephone are unsuccessful, the examiner's supervisor, John Hilten, can be reached on (703) 308-0719. The fax phone number for this Group is (703) 308-5841 and 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

*Encl.*

AH N  
March 21, 2000

  
JOHN S. HILTEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800